

CS FOR HOUSE BILL NO. 428(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/5/96

Referred: Finance

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Department of Corrections to contract
2 for facilities for the confinement and care of prisoners, and annulling a regulation
3 of the Department of Corrections that limits the purposes for which an agreement
4 with a private agency may be entered into; and giving notice of and approving
5 a lease-purchase agreement for construction and operation of a correctional facility
6 in the Third Judicial District, and setting conditions and limitations on the
7 facility's construction and operation."

8 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9 * **Section 1.** AS 33.30.031(a) is amended to read:

10 (a) The commissioner shall determine the availability of state correctional
11 facilities suitable for the detention and confinement of persons held under authority of
12 state law or under agreement entered into under (e) of this section. If the
13 commissioner determines that suitable state correctional facilities are not available, the

1 commissioner may enter into an agreement with a public or private agency to provide
2 necessary facilities, **subject to the following:**

3 **(1) the commissioner may not enter into an agreement with a**
4 **public or private agency that is unable to provide a degree of custody, care, and**
5 **discipline to the extent required by the laws of this state, including the standards**
6 **of custody, care, and discipline that are required by order of a court;**

7 **(2) correctional** [. CORRECTIONAL] facilities provided through
8 agreement with a public agency for the detention and confinement of persons held
9 under authority of state law may be in this state or in another state;

10 **(3) correctional** [. CORRECTIONAL] facilities provided through
11 agreement with a private agency

12 **(A)** must be located in this state unless the commissioner finds
13 in writing that

14 **(i)** [(1)] there is no other reasonable alternative for
15 detention in the state; and

16 **(ii)** [(2)] the agreement is necessary because of health
17 or security considerations involving a particular prisoner or class of
18 prisoners, or because an emergency of prisoner overcrowding is
19 imminent;

20 **(B) may provide for the detention and confinement of all**
21 **persons held by the commissioner under authority of state law, whether**
22 **charged with or convicted of felonies or misdemeanors, without regard to**
23 **the custody classifications for prisoners as determined by the**
24 **commissioner, unless the security of the facility is inconsistent with those**
25 **custody classifications; and**

26 **(C) may not be administratively restricted or limited by the**
27 **commissioner to use only for prisoners involved in certain rehabilitative or**
28 **treatment programs authorized by law.** [THE COMMISSIONER MAY
29 NOT ENTER INTO AN AGREEMENT WITH AN AGENCY UNABLE TO
30 PROVIDE A DEGREE OF CUSTODY, CARE, AND DISCIPLINE SIMILAR
31 TO THAT REQUIRED BY THE LAWS OF THIS STATE.]

1 * **Sec. 2.** NOTICE AND APPROVAL OF LEASE-PURCHASE AGREEMENT. (a) To
2 provide for the construction and operation of a new correctional facility in order to relieve
3 overcrowding of existing correctional facilities, the Department of Administration, on behalf
4 of the Department of Corrections, may enter into a lease-purchase agreement with a private
5 third-party contractor under AS 33.30.031 for the construction and operation of a correctional
6 facility in the Third Judicial District that will house persons who are committed to the custody
7 of the commissioner of corrections. The project approval given by this subsection is subject
8 to the conditions of (b) of this section and to the following limitations:

9 (1) the total construction and related costs of establishing the correctional
10 facility may not exceed \$100,000,000;

11 (2) the total lease payments for the full term of the agreement may not exceed
12 \$200,000,000 and the anticipated annual amount of the rental obligation to be paid by the
13 Department of Corrections under the lease must be reasonably commensurate with that total;
14 and

15 (3) at the end of the term of the lease-purchase agreement, the state shall own
16 the correctional facility.

17 (b) The correctional facility to be constructed and operated under the notice and
18 approval given in (a) of this section

19 (1) must be designed and constructed so as to house, in separate housing,

20 (A) female prisoners; and

21 (B) male prisoners held under conditions that are appropriate for
22 prisoners who have been classified under AS 33.30.011(2) as other than maximum
23 custody; the correctional facility may not be constructed to house prisoners who are
24 classified as maximum custody;

25 (2) may not contain a total population of more than 1,000 prisoners, but must
26 be designed and constructed so as to allow expansion of the facility to a greater capacity; and

27 (3) may not be operated by the state except temporarily when

28 (A) the private third-party contractor with whom the state has entered
29 into an agreement to operate defaults in performance under the contract and state
30 operation is reasonably necessary to ensure the facility's continued operation; or

31 (B) the state is unable to contract with a private third-party contractor.

1 (c) If required by the commissioner of corrections as a condition of the correctional
2 facility's operation, in the award of a contract for the operation of the correctional facility to
3 be constructed and operated under the notice and approval given in (a) of this section, the
4 Department of Administration shall require that persons employed by the contractor as
5 correctional officers in the facility meet the requirements of AS 18.65.130 - 18.65.290 that are
6 applicable to correctional officers.

7 (d) If directed by the commissioner of corrections as a condition of the correctional
8 facility's operation, in the award of a contract for the operation of the correctional facility to
9 be constructed and operated under the notice and approval given in (a) of this section, the
10 Department of Administration shall require the contractor to seek, obtain, and maintain
11 accreditation of the correctional facility. This requirement is effective only when, as a matter
12 of policy, the commissioner of corrections seeks and obtains accreditation of state correctional
13 facilities. Accreditation under this subsection shall be under standards of accreditation
14 applicable to correctional facilities that are not more stringent than those applicable to state
15 correctional facilities operated by the Department of Corrections.

16 (e) Subsection (a) of this section constitutes the notice and approval required by
17 AS 36.30.085.

18 * **Sec. 3. CONSTRUCTION OF CORRECTIONAL FACILITY UNDER PROJECT**
19 **LABOR AGREEMENT.** (a) The purpose of this section is to enable the state to meet its
20 obligation to improve the care and custody of the prisoners for which it is responsible at an
21 early date through the completion of construction of a major correctional facility by structuring
22 labor relations at the job site of the correctional facility in the interests of industrial harmony
23 and in a way that makes optimal use of construction resources.

24 (b) Notwithstanding any restrictions that may be applicable under AS 36.30, the
25 correctional facility described in sec. 2 of this Act may be constructed only under a public
26 construction project labor agreement between the building construction contractor and one or
27 more building trade unions; the labor agreement must provide

- 28 (1) a no-strike and no-slowdown pledge by the union or unions;
- 29 (2) a commitment on the part of the construction contractor to hire through
30 local union hiring halls; and
- 31 (3) a provision allowing not more than 15 percent of the construction

1 contractor's workforce on the public construction project to be composed of persons who are
2 not members of the union or unions.

3 * **Sec. 4.** Nothing in sec. 2 of this Act precludes operation of the correctional facility
4 described in sec. 2(a) of this Act by a private third-party contractor comprised of persons
5 employed by the Department of Corrections.

6 * **Sec. 5.** 22 AAC 05.300(e) is annulled.